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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,149	09/11/2003	Anthony Mark Phillips	81045169/201-1566	2148

28395 7590 09/21/2004
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EXAMINER

BEAULIEU, YONEL

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/605,149	PHILLIPS ET AL.	
	Examiner	Art Unit	
	Yonel Beaulieu	3661	<i>NW</i>

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-33 is/are allowed.
- 6) ☒ Claim(s) 1-20, 34-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/7/04 & 9/11/03</u> | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 – 20 and 34 – 43 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific asserted utility or a well established utility.

Claim 1 calls for *resolving a plurality of vehicle torque requests*; however, while there has been a showing resolving torque requested at a first level, translating the desired first level and resolving the translated a desired first level base to produce a desired second level base torque, it is not readily clear as to what takes place subsequently. What specifically is the plurality of torque resolution requests used for? As to claim 34, the intended end purpose of the *controller* appears to not readily be achieved. The controller comprises, among others, a *wheel level resolver* that generates wheel level request, a *translator* that translates the request and a *transmission input level resolver* that generates and transmits different level requests. However, it is not clear as how the generation and transmission requests are used to achieve the intended purpose. Also, because claim 35 makes reference to vehicle speed and desired vehicle speed, is the controller embedded (or useable) in a vehicle?

Claims dependent upon claims 1 and 34 above are necessarily rejected under the same rationale since neither has remedied what is lacking from claims 1 and 34.

Claims 1 – 20 and 34 – 43 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Allowable Subject Matter

Claims 21 – 33 are allowed. The prior art of record fail to teach a vehicle comprising, among other limitations, a control system in communication with torque requesting elements and torque producing devices and operative to

- (a) resolve wheel level torque requests*
- (b) translate wheel level torque requests through each of at least one transmission to at least one transmission input level*
- (c) resolve translated wheel level torque requests together with transmission input level torque requests, and*
- (d) generate commands for the at least one torque producing device based upon the resolved torque requests.*

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (703) 305-4072. The examiner can normally be reached on M-R, from 0900-1600.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Y. BEAULIEU
AU 3661


YONEL BEAULIEU
PRIMARY EXAMINER